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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,032	01/22/2004	Donald F. Wilson JR.	59474.21780	6979

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EXAMINER

RYCKMAN, MELISSA K

ART UNIT	PAPER NUMBER
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3734

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/763,032	Applicant(s) WILSON ET AL.	
	Examiner Melissa Ryckman	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,9-20 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to applicants' response filed 10/30/06. Claims 2-4 and 9-20 are pending in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 recites the limitation "the mouth" in line 9 of claim 12. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2,3,9-13, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider (U.S. Patent No. 3,247,852).

Claim 2:

Schneider teaches a surgical clip with an interlocking latch mechanism, including a first leg (11) and a second leg (12), each of said legs having an inner vessel-clamping surface (20) and an outer surface (Fig. 1), said inner surfaces being positioned in

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opposition to each other; a flexible hinge section (13) integrally disposed between and joining the proximal ends of said first and second legs; and a female locking member (14, hook member 16, 15, and portion below the number 21 in Fig. 1 that is connected to 11 and 15) positioned on the distal end of said first leg and comprising a resilient inwardly turned hook defining a recess in the mouth of said hook (recess, portion defined by 16 in Fig. 2 where 18 and 16 meet), and a male locking member (18) positioned on the distal end of said second leg comprising at least one detent (Fig. 1) extending outwardly therefrom, said female and male locking members being formed whereby when said first and second leg members are moved from an open position to a closed position about said hinge section (Fig. 1 and 2), said resilient hook of said female locking member is urged open to receive the detent of said male locking member in the recess thereof so as to removably lock said first and second leg members of said surgical clip in said closed position (Fig. 2). The surgical clip further comprising a gusset (portion of 15 that has diagonal line in the mouth of the hook) within the mouth of said hook.

Claim 3:

3. Schneider teaches the surgical clip, wherein said gusset (portion of 15 that has diagonal line in the mouth of the hook) divides said recess (recess, portion defined by 16 in Fig. 2 where 18 and 16 meet) in the mouth of said hook so as to form a bifurcated recess (portion of 14 near 21 is one recess, and the other recess in 16).

Claims 9 and 10:

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4. Schneider teaches the surgical clip, wherein at least one of said inner surfaces of said clip comprises a plurality of protrusions (20) extending from said inner surface for providing improved vessel retention during and following closure of said clip. Both of said inner surfaces of said clip comprise said plurality of protrusions (Fig. 1, 20).

Claim 11:

5. Schneider teaches the surgical clip, wherein said hinge section has a continuous concave inner surface (13) and a continuous convex outer surface (See Fig. 1).

Claim 12:

6. Schneider teaches the surgical clip with an interlocking latch mechanism having a first leg (11) and a second leg (12), each of said legs having an inner vessel-clamping surface (20) and an outer surface (Fig. 1), said inner surfaces being positioned in opposition to each other; a flexible hinge section (13) integrally disposed between and joining the proximal ends of said first and second legs; and a female locking member (14, hook member 16, 15, and portion below the number 21 in Fig. 1 that is connected to 11 and 15) positioned on the distal end of said first leg and comprising a resilient inwardly turned hook defining a bifurcated recess (portion of 14 near 21 is one recess, and the other recess in 16) in the mouth of the hook, and a male locking member (18) positioned on the distal end of said second leg comprising two spaced-apart detents (two of 17, Fig. 5) each having a lip extending section to facilitate said detents lockingly engaging said recess (Fig. 2), whereby when said first and second leg members are moved from an open position to a closed position about said hinge section said resilient hook of said female locking member is urged open to receive the detent of said male

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locking member in the recess thereof so as to removably lock said first and second leg members of said surgical clip in said closed position (Figs. 1 and 2).

Claim 13:

The surgical clip further comprising a gusset (portion of 15 that has diagonal line in the mouth of the hook) within the mouth of said hook.

Claims 18 and 19:

7. Schneider teaches the surgical clip, wherein at least one of said inner surfaces of said clip comprises a plurality of protrusions (20) extending from said inner surface for providing improved vessel retention during and following closure of said clip. Both of said inner surfaces of said clip comprise said plurality of protrusions (Fig. 1, 20).

Claim 20:

8. Schneider teaches the surgical clip, wherein said hinge section has a continuous concave inner surface (13) and a continuous convex outer surface (See Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (U.S. Patent No. 3,247,852) as applied to claim 12 above, and further in view of Oh et al. (U.S. Patent No. 5,062,846).

Claim 14:

Schnieder teaches the claimed invention, but does not have the specified curvature as stated in the application, however Oh et al. said inner surface of said first leg (20) has a concave radius of curvature between said hinge section and its distal end, said outer surface of said first leg (30) has a convex radius of curvature between said hinge section and its distal end, said inner surface of said second leg (24) has a convex radius of curvature between said hinge section and its distal end, and said outer surface of said second leg (38) has a concave radius of curvature between said hinge section and its distal end.

It would have been obvious to one of ordinary skill in the art to have the curvature as specified by the applicant as this improves the ergonomics of the clip.

Claims 15-17:

Schnieder teaches the claimed invention but does not have bosses, however Oh et al. teaches a pair of bosses (68 and 70) joined to opposite sides of said first leg (12) between said hinge section and the distal end of said first leg, and a pair of bosses (72 and 74) joined to opposite sides of said second leg (14) at the distal end of said second leg. A portion of said pair of bosses joined to said first leg extend beyond said outer surface of said first leg to form a bridge section (col. 6 ll. 24-26). Said pair of bosses on

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said second leg (72 and 74) each have a sharp tissue-penetrating tooth (81 and 83) extending therefrom toward said first leg.

It would have been obvious to one of ordinary skill in the art to have a pair of bosses as these are appropriate places to hold the clip. It would have been obvious to one of ordinary skill in the art to have teeth extending from the bosses as these can be used to pierce tissue.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 2-4 and 9-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Ryckman whose telephone number is (571)-272-9969. The examiner can normally be reached on Monday thru Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571)-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MKR

A handwritten signature in black ink, appearing to read "MJ Hayes", is positioned above the printed name.

MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER